

**Tyringham Planning Board**  
**Meeting Minutes – June 27, 2001**  
**Approved 7/11/11**

**Present:** Rich Biasin (RB), Jerry Miller (JM), Barbara Palmer (BP), Ed Nardi (EN)  
Also: Al Wilcox (until 7:20), Holly Ketron, Lois Jensen, Vivi Manuzzo, Brody Hale,  
Chuck Rich, Roger Ketron, Peter Rosati, Robin Almgren, James Fawcett, Charles Slater,  
John Donald, Penelope Borax, Larry Bravo, Eugenie Fawcett  
**Absent:** Carey McIntosh, Sarah Hudson

Chair Jerry Miller called the meeting to order at 7:05.

Selectman Al Wilcox was recognized to address the board first, as he needed to return to Fire Department training. Mr. Wilcox explained that he had come to clarify the reasoning for the select board's choice of alternate member. The selectmen had considered both the PB recommendation and the vote of the people. Since the people of Tyringham had given Robin Almgren 42 votes, the selectmen appointed her to the alternate position. He informed the board that he had spoken to Sarah Hudson and that they are investigating the possibility of naming a second alternate. Mr. Wilcox asked the board's consideration of this. In general, Mr. Wilcox would like more residents involved in town boards. He recommended that anyone interested should be on the ballot.

Jerry Miller asked that the selectmen make clear the order of succession for alternates, should they choose to appoint a second alternate.

**(1) Appointment of Robin Almgren** as the Associate Member – Robin was welcomed and will begin serving after she is sworn in on 6/28.

**(2) Minutes** for 13 June, 2011, approved as circulated.

**(3) Public comment:** Holly Ketron, 262 Main Road, noted that Bylaw 6.7 is extremely restrictive and asked if the bylaw was crafted to prevent any kind of tower in Tyringham, as opposed to regulating towers. She said she hoped the answer is "no". If that is the case, she would urge the PB to create an appropriate bylaw for the town, a bylaw that does not block all possible towers. The Broadband Committee, which she chairs, is charged with finding a way to bring high speed internet to the town. At this time there is only one small provider who is possibly interested. With the current bylaw, she is concerned that the small company would walk away and a large company would only come if there were enough customers to serve, which Tyringham probably doesn't have. The Broadband Committee has a public meeting planned with Wired West on July 14 to answer questions.

Lois Jensen, 255 Main Road, noted that she saw in the minutes of the last PB meeting that bylaw 6.7 is being reconsidered, or "back up for grabs." She is concerned that this would be the case after the new by-law has been under development for a year, it was approved by all, public hearings were held, the town attorney called it "excellent" and it

was approved by vote at the town meeting. She stated that it is her personal opinion that there is an agenda at work to lower the bar for one applicant, Wispring.

Vivi Manuzzo, Monterey Road, noted that she is confused why questions are being raised now, since residents have had opportunities throughout the process to ask questions. She has heard that the possible tower would not serve the whole community. The Broadband committee is confusing her by asking questions and she wonders why they are asking.

Brody Hale, 69 Main Road, noted that he is blaming himself for not getting involved in this process sooner. He has found the difficulty of internet access in Tyringham jarring, after being in other parts of the country. As a blind person, he is particularly dependent on electronic communications. He stated that sitting in a car somewhere at 11:30 at night to get internet access is difficult or unworkable. He has looked into the concerns about health effects of non-ionizing radiation, including discussing them with an engineer. He has found nothing conclusive and feels the decisions should be based on provable facts. He noted that high speed internet access could bring a lot of benefit to people in town.

Jerry Miller confirmed that the PB is looking at the bylaw, because valid issues have been raised. He explained that any change to the bylaw is a lengthy process, there would need to be public hearings and a town meeting. He noted that the PB has the power to make recommendations--not to make a decision--on a by-law.

Vivi Manuzzo: Did the AG recommend any changes?

Jerry Miller: No, he understands that the bylaw was submitted last week.

**(4) No action required for ANR's or building permits.**

**(5) WiSpring's application for a special permit** –Jerry Miller reported that he had been contacted for contact information for the town attorney, nothing further.

**(6) BRPC delegate** – tabled by unanimous vote until the question of a second alternate is determined.

**(7) Board member feedback on potential modifications to Bylaw 6.7:** Chairman Miller led a page by page review of the bylaw text and the following points were discussed for further consideration:

p.1 JM stated that the title “telecommunications” is ambiguous. Needs to clearly define who the bylaw concerns. Alternative term could be “Personal Wireless Service.” EN pointed out that the 2007 FCC ruling separated personal wireless services from telecommunications. He asked that the discussion not end tonight, because more time is needed. RB asked if the PB should wait for the AG response. He recommended taking the recommendations of attorney Joel Russell under strong advisement. JM explained that AG reviewed the draft bylaw and had no issues.

II a – JM expressed concern that the bylaw may violate this clause by in effect prohibiting wireless services.

IIC – JM explained that this is where the bylaw explicitly states that the PB can not regulate based on health.

BP introduced herself to the residents as a new member and relatively new resident. She explained that the job of the PB is not new to her; she had served on a PB as vice chair in her previous town. She said that she had asked the PB members to explain the new bylaw to her, so she could understand the choices that were made. She stated that access to cell phones and internet services over the last decade has evolved to become an essential safety and prosperity need. Government, social services, schools and even medical providers now communicate much essential information electronically. Tyringham is underserved and this is hurting our residents. Beyond the connection needs of residents, students and businesses, our properties are less valuable and more difficult to rent or sell. She noted that it is the role of the Planning Board to plan for the proper integration of these developments in our municipality while protecting the character of the town.

**III. Definitions.** BP asked what is meant by “coverage area” in the definition of “Adequate Coverage”. JM explained that significant parts of the bylaw were adapted from bylaws of other towns, particularly one from a CT town that the PB members felt was suitable. Carey McIntosh may know what is meant here.

BP said that the current bylaw definition of *Personal Wireless Services* does not include Fixed Wireless internet providers, unlike the Monterey by-law. Otherwise the definition is identical to the Monterey one, and she asked why this was specifically left out.

**IV. Exemptions** line 6. EN questioned “for any reason” in this clause.

**VIII. General Project/Site Requirements, J. Use of repeaters.** BP pointed out that the Wispring antenna could possibly fit under the definition of repeater if it has in fact a 10 Watt power output.

P.1. BP noted that the PB may want to consider allowing placement of repeaters where they will be most effective to serve the community.

P.3.i. JM questioned whether the bylaw needed to limit placement on an applicant’s own property to 1,500+ feet from a structure. This could have the effect of less suitable location. He cited a case in nearby New York State where this happened. EN also questioned need to limit property owner.

P.3.ii. RB explained that the 1,500 foot boundary setback was chosen to protect property values and scenic views and foremost to protect abutters from having a cell tower put in their view. JM explained the PB chose to allow placement of a tower at 200+ feet from a boundary with the agreement of abutters, including a permanent deed restriction preventing construction within 1,500 feet. The workability of this was questioned. BP noted that to her it appeared the Lot Size and Setback Requirements of 1500’ preclude siting a facility in the town, due to lack of properties of adequate size. The minimum lot that could fit such an installation without variance is 225 acres in a square shape with the perfect site at its exact center. She explained that she took a glance at property lines on Google maps, which is not a scientific study, but it revealed only two possible properties of such size, located between Goose Pond and Webster Roads toward Becket. She cautioned that writing a bylaw with such stringent requirements may seem a protection of the town, but in fact it may serve to give up control. She is concerned that there are only

two ways to build a telecommunications tower in Tyringham under this by law. One is to challenge the bylaw in court and have it thrown out, which is the route a larger commercial applicant would be likely to take. The other would be to seek variances to deal with the strict requirements. Variances would have to be sought from the Zoning Board of Appeals, not the PB. In either case, the PB would have no control of applications for telecommunications towers. She said that in her opinion this is not a good idea, because the PB is the most suitable body in town for weighing such applications.

BP also asked why the PB did not consider differentiating between different sizes of facilities. The current bylaw has one set of space and set-back requirements for all applicants. She feels this may have unintended negative consequences and it precludes siting in places such as church steeples, barns, etc that may be very suitable for certain applications.

RB stated that he didn't think it was the PB's job to study property lines and lot sizes and asked BP to bring in the law that requires this.

Q. EN questioned the size of fall zones 4 times the tower height. JM considers parts of Q contradictory. RB felt that the line needed to be drawn. JM stated that all agree that this section needs to be discussed further.

IX.A. BP asked that the wording be more specific about what kinds of applications in other towns need to be brought with the application and the time frame this applies to, also what is meant by "this copy" in the last sentence.

IX.C. 1. JM questioned the need for a 30 mile radius going to Westfield and into NY State.

X.E. It was noted this may be a repeat from IX. A and C.

XI. BP asked if references to Building Commissioner throughout are to the same office as Building Inspector.

XII. Co-location here and elsewhere in bylaw. BP noted that mandating tower sharing could have unintended consequences. It could be fine for large cell phone towers, such as those on the Mass Pike, but it forces a larger size on small applicants, which may be a hindrance for serving the town and for preserving aesthetics.

JM stated that the PB needs to continue this conversation and seek Carey McIntosh's input.

Holly Ketron asked how the Broadband Committee could supply background materials on these issues to the PB. She is concerned that the PB may be consulting the bylaws of towns that are seeking to keep out towers more legitimately because they are already well served by cable or DSL. JM asked that they be given to Molly Schaefer at town hall. He also asked that residents not engage PB members in email discussions. It could violate

the open public meetings law. He asked that all interested residents please attend and speak at PB meetings.

(8) Bobrowski's "Handbook of Massachusetts Land Use and Planning Law" has been ordered for the PB by Molly Schaefer with PB funds.

9) **New business** – JM gave keys to the Schoolhouse and Town Hall to RB and BP.

**Review of mail:** please vote on Town Flag

Listing of 2012 officers, board and committee members and their terms

Notification of a planning grant awarded to BRPC

Notice from Monterey of a hearing on an application on Main Rd.

Bekshire Law Library notice for all members to use resources

E-911 list

RB asked that it be confirmed that Bylaw 6.7 was sent to the AG.

Swearing in will take place at town hall on 6/28 or over the phone.

JM will ask Molly Schaefer if PB can meet in upstairs meeting room at town hall to accommodate residents better.

JM will not be at the July 11 meeting. RB will chair.

The meeting ended ca. 9 pm

Respectfully submitted,

Barbara Palmer